

March 4, 2004

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OF THE COURT, BUT IS SOLELY FOR
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**IN THE SUPREME COURT OF THE STATE OF IDAHO
Docket No. 29822**

**FRANKLIN BUILDING SUPPLY CO., an
Idaho corporation,**

Plaintiff-Appellant,

v.

**DOUGLAS E. SUMPTER and PAMELA
K. SUMPTER, husband and wife;
STERLING SAVINGS BANK,**

Defendants Respondents,

and

**POND CONSTRUCTION, INC.;
CLARENCE and SUSAN POND, husband
and wife; TRANSNATION TITLE &
ESCROW; CC CABINETS, INC.; PRICE
RITE CARPETS; JOHN W. WARD; ALLEN
ASHBY; and JOHN K. WARD d/b/a WARD
PLUMBING,**

Defendants.

Boise, November 2003 Term

2004 Opinion No. 26

Filed: March 4, 2004

Frederick C. Lyon, Clerk

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Kathryn A. Sticklen, District Judge.

Decision of the district court holding materialman's lien to be untimely filed, reversed; application of statutory rate to compute interest on the lien amount, affirmed. Case remanded for proceedings consistent with this opinion.

Jones, Gledhill, Hess, Andrews, Fuhrman, Bradbury & Eiden, PA, Boise, for appellant. Scott D. Hess argued.

Ling & Robinson, Rupert; Stoel Rives, LLP, Boise, for respondent.
Thomas A. Banducci argued.

In an opinion issued today, the Idaho Supreme Court reversed the lower court's ruling that Franklin Building Supply's (Franklin) materialman's lien was untimely filed. The Court held the date of the last items supplied by Franklin pursuant to the contract between Franklin and the contractor, not the home's substantial completion date, to be the relevant date for the timing for filing of Franklin's lien. Thus, Franklin's lien, which was filed within ninety days of the date of the last items supplied pursuant to the open account with the contractor, was within the statute and entitles Franklin to pursue its rights against the Sumpters' property. The Court affirmed the lower court's decision to allow recovery of interest at the statutory rate. The Court declined to make an award of attorney fees.